

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

3 **UNITED STATES OF AMERICA,**

4 **Plaintiff,**

5 **v.**

CASE NO. 12-2039 (GAG)

6 **COMMONWEALTH OF PUERTO RICO,**
7 **et al.,**

8 **Defendants.**

9 **ORDER**

10 The request to hold DPS Secretary Pesquera in contempt of court, and requesting equitable
11 remedies and sanctions at Docket No. 648 is hereby **DENIED**. At the outset, the court is mindful
12 that the present case, before the court for enforcement purposes, is based on a consent decree-type
13 agreement between US DOJ and Commonwealth.

14 Col. Vega is not a party to the action, and the Agreement does not contemplate third parties
15 to seek any form of relief. More so, the present motion, while not a request for damages under
16 Section 1983, and/or Puerto Rico law contains all the elements for a cause of action under 42
17 U.S.C. § 1983; the court is asked to make a determination and enter declaratory and injunctive
18 relief which would subsequently be the basis for any compensatory and punitive damages against
19 Secretary Pesquera to proceed with. The court, thus, cannot— by virtue of the enforcement of the
20 agreement in this case— allow an independent civil rights claim between and individual police
21 officer and Secretary Pesquera. Rather the same must be commenced by the filing of a complaint,
22 service of process and further compliance with the Rules of Civil Procedure. An attempt to do
23 justice in the manner sought would improperly open the floodgates of the court. Every individual
24 claim by a police officer who alleges a violation of his/her civil rights and raises the Agreement as

Civil No. 12-2039 (GAG)

1 a basis would thus be entitled to litigate his claim afoul to the spirit of the Rules and within the
2 present post-judgment jurisdictional conundrum. For example, Coronel Roberto Salva López, who
3 has sued Commissioner Fraley and Governor Rosselló in Commonwealth court, could also ask
4 that his claim also be decided under the enforcement umbrella of the Agreement. Others would
5 follow suit. That would leave US DOJ (as the other party in interest) in a limbo. Accordingly,
6 Col Vega's motion is hereby **DENIED**.

7 This ruling does not constitute a decision as to the merits of Col. Vega's grievance nor does
8 this preclude the US DOJ from taking any necessary action, if warranted. The court at this time
9 expresses no opinion as to the propriety of the same.

10 **SO ORDERED.**

11 In San Juan, Puerto Rico this 30th day of November, 2017.

12 *s/ Gustavo A. Gelpí*

13 GUSTAVO A. GELPI

14 United States District Judge
15
16
17
18
19
20
21
22
23
24